

REMARKS/ARGUMENTS

Claim Rejections

The present application includes pending claims 1-8, 11-19, 22-30, 33 and 36-50, of which claims 1-8, 11-19, 22-30, 33, 36, 39-41, 44-46 and 49-50 have been rejected. The claims 2-10, 16, 17 and 19 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Initially, the Applicant notes that a goal of patent examination is to provide a prompt and complete examination of a patent application:

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial review* of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should* state *all* reasons and bases for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

Manual of Patent Examining Procedure (MPEP) § 2106(II).

As such, the Applicant assumes, based on the goals of patent examination noted above, that the present Office Action has set forth "all reasons and bases" for rejecting the claims.

The claims 1, 5-6, 12, 16-17, 23, 27-28, 36, 39-40, 41, 44-46 and 49-50 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Menich et al. (US Patent 4,704,734 hereinafter, Menich) in view of Matsui et al. (U.S. Patent 6,907,094, hereinafter Matsui). Claims 2-3, 13-14 and 24-25 have been rejected under 35 U.S.C. § 103(a) as being as being unpatentable over Menich in view of Matsui and further in

view of Xu (U.S. Patent Application 2004/0203,550, hereinafter Xu). Claims 4, 15 and 26 have been rejected under 35 U.S.C. § 103(a) as being as being unpatentable over Menich in view of Matsui, Xu and further in view of Akerberg (U.S. Patent 6,553,078, hereinafter Akerberg). Claims 7, 18 and 29 have been rejected under 35 U.S.C. § 103(a) as being as being unpatentable over Menich in view of Matsui and further in view of Lyons et al. (U.S. Patent Application 2005/0095,987, hereinafter Lyons). Claims 8, 19 and 30 have been rejected under 35 U.S.C. § 103(a) as being as being unpatentable over Menich in view of Matsui and further in view of Rozanski (U.S. Patent 5,530,926, hereinafter Rozanski). Claims 11, 22 and 33 have been rejected under 35 U.S.C. § 103(a) as being as being unpatentable over Menich in view of Matsui and further in view of Banister (U.S. Patent 6,456,647, hereinafter Banister). Claims 12-19, 22 and 41-45 are rejected under 35 U.S.C. § 101 "because for the independent claims 12, 41, there is no code, executable code, being stored in 'A machine-readable storage having stored thereon.'" See Office Action page 2, item 2. The Applicant respectfully traverses these rejections and requests reconsideration of the claims in view of the following remarks.

Claim Rejections under 35 U.S.C. § 101

The Office Action rejected claims 12-19, 22 and 41-45 are rejected under 35 U.S.C. § 101 "because for the independent claims 12, 41, there is no code, executable code, being stored in 'A machine-readable storage having stored thereon.'" See Office Action page 2, item 2. Claims 12-19, 22 and 41-45 have been amended in response to the rejection under 35 U.S.C. § 101.

Claim Rejections under 35 U.S.C. § 103(a)

Rejection of claims 1, 5-6, 12, 16-17, 23, 27-28, 36, 39-40, 41, 44-46 and 49-50 under 35 U.S.C. § 103(a)

The Office Action asserts that the claims 1, 5-6, 12, 16-17, 23, 27-28, 36, 39-40,

41, 44-46 and 49-50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Menich in view of Matsui. Claims 1, 12, 23, 36, 41 and 46 are independent claims.

The Combination of Menich and Matsui does not Teach a Selecting a Starting Antenna by Using Majority Polling Scheme

The Applicant first turns to the rejection of independent claims 1, 12 and 23 as being unpatentable over Menich in view of Matsui under 35 U.S.C. § 103(a). The combination of Menich and Matsui does not teach selecting a starting antenna by using a majority polling scheme as is recited in independent claims 1, 12 and 23.

Furthermore, the Applicant respectfully asserts that the combination of Menich and Matsui does not even teach a majority polling scheme.

The Office Action asserts that Menich teaches “determining at least one starting antenna from said plurality of antennas based on said collected information received from said portion of said plurality of antennas.” See Office Action, page 3. For support the Examiner turns to Menich, column 13, line 6. Referring to the language from Menich, Menich teaches (with reference to FIG. 20a), “(the) starting antenna are (is) initialized at 2004.” The cited step 2004 in FIG. 20a discloses that the starting antenna number is set to a value of zero (0) (Menich, column 13, lines 5-6 and FIG. 20a). The Applicant submits that Menich does not teach that the initialized value for the starting antenna is determined based on collected information received from any of a plurality of antennas. For at least the reasons stated above, the Applicant respectfully submits that the combination of Menich and Matsui does not teach selecting a starting antenna by using a majority polling scheme as is recited in independent claims 1, 12 and 23.

The Office Action also asserts that Menich teaches “using a majority polling scheme.” See Office Action, page 3. For support, the Examiner turns to Menich, column 13, lines 19-59 and FIG. 20b. Referring again to Menich, Menich teaches a method by which “the output from each particular antenna is stored in a predetermined bin so that it is possible for the microprocessor 1302 to correlate stored signal strength information to a particular antenna” (Menich, column 12, lines 52-58) [the Applicant notes that the “bins” refer to distinct storage locations within the upper RSSI 1702 buffer

and the stored output from each particular antenna refers to a signal strength measurement (Menich, column 12, lines 28-31, column 13, lines 10-12, FIG. 17 and FIG. 20a)]. Menich also teaches that this method is practiced for a determined number of iterations or “passes” and that for each pass, a signal strength measurement is performed for each antenna and the signal strength measurement is stored in the corresponding bin (Menich, column 13, lines 21-24 and FIG. 20a). After completing the determined number of passes the bin containing the strongest signal strength measurement is determined and the receiver system is set to the corresponding antenna (Menich, column 13, lines 41-51). The Office Action asserts that this method taught by Menich is a “majority polling scheme. See Office Action, page 3.

The Applicant respectfully disagrees with the assertions set forth in the Office Action. The Applicant specifically challenges the apparent interpretation that the method taught by Menich, which is based on determining a strongest signal strength measurement among a plurality of antennas, is a “majority polling scheme.” The Applicant requests that the Examiner provide authority to support the assertion that the Menich teaches a majority polling scheme.

For at least the reasons stated above, the Applicant respectfully submits that the combination of Menich and Matsui does not teach selecting a starting antenna by using a majority polling scheme as is recited in independent claims 1, 12 and 23.

The Applicant next turns to the rejection of independent claims 36, 41 and 46 as being unpatentable over Menich in view of Matsui under 35 U.S.C. § 103(a). For at least the reasons stated above, the Applicant respectfully submits that the combination of Menich and Matsui does not teach selecting a starting antenna by using a majority polling scheme as is recited in independent claims 36, 41 and 46.

For at least the reasons stated above, the Applicant respectfully submits that claims 1, 12, 23, 36, 41 and 46 are not unpatentable over Menich in view of Matsui under 35 U.S.C. § 103(a). Additionally, since the dependent claims 2-8, 11, 39 and 40 depend on the independent claim 1, dependent claims 13-19, 22, 44 and 45 depend on the independent claim 12, dependent claims 24-30, 33, 49 and 50 depend

on the independent claim 23, dependent claims the Applicant respectfully requests that the rejection of these claims also be withdrawn. Applicant respectfully reserves the right to argue additional reasons that support the allowability of claims 1-8, 11-19, 22-30, 33 and 36-50 should that need arise in the future.

Rejection of claims 2-3, 13-14 and 24-25 under 35 U.S.C. § 103(a)

The Office Action asserts that the claims 2-3, 13-14 and 24-25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Menich in view of Matsui and further in view of Xu.

For at least the reasons stated above, the Applicant respectfully submits that claims 2-3, 13-14 and 24-25 are not unpatentable over Menich in view of Matsui and further in view of Xu under 35 U.S.C. § 103(a). The Applicant respectfully requests that the rejection of these claims be withdrawn. Applicant respectfully reserves the right to argue additional reasons that support the allowability of claims 2-3, 13-14 and 24-25 should that need arise in the future.

Rejection of claims 4, 15 and 26 under 35 U.S.C. § 103(a)

The Office Action asserts that the claims 4, 15 and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Menich in view of Matsui, Xu and further in view of Akerberg.

For at least the reasons stated above, the Applicant respectfully submits that claims 4, 15 and 26 are not unpatentable over Menich in view of Matsui, Xu and further in view of Akerberg under 35 U.S.C. § 103(a). The Applicant respectfully requests that the rejection of these claims be withdrawn. Applicant respectfully reserves the right to argue additional reasons that support the allowability of claims 4, 15 and 26 should that need arise in the future.

Rejection of claims 7, 18 and 29 under 35 U.S.C. § 103(a)

The Office Action asserts that the claims 7, 18 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Menich in view of Matsui and further in view of Lyons.

For at least the reasons stated above, the Applicant respectfully submits that claims 7, 18 and 29 are not unpatentable over Menich in view of Matsui and further in view of Lyons under 35 U.S.C. § 103(a). The Applicant respectfully requests that the rejection of these claims be withdrawn. Applicant respectfully reserves the right to argue additional reasons that support the allowability of claims 7, 18 and 29 should that need arise in the future.

Rejection of claims 8, 19 and 30 under 35 U.S.C. § 103(a)

The Office Action asserts that the claims 8, 19 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Menich in view of Matsui and further in view of Rozanski.

For at least the reasons stated above, the Applicant respectfully submits that claims 8, 19 and 30 are not unpatentable over Menich in view of Matsui and further in view of Rozanski under 35 U.S.C. § 103(a). The Applicant respectfully requests that the rejection of these claims be withdrawn. Applicant respectfully reserves the right to argue additional reasons that support the allowability of claims 8, 19 and 30 should that need arise in the future.

Rejection of claims 11, 22 and 33 under 35 U.S.C. § 103(a)

The Office Action asserts that the claims 11, 22 and 33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Menich in view of Matsui and further in view of Banister.

For at least the reasons stated above, the Applicant respectfully submits that

claims 11, 22 and 33 are not unpatentable over Menich in view of Matsui and further in view of Banister under 35 U.S.C. § 103(a). The Applicant respectfully requests that the rejection of these claims be withdrawn. Applicant respectfully reserves the right to argue additional reasons that support the allowability of claims 11, 22 and 33 should that need arise in the future.

CONCLUSION

Based on at least the foregoing, Applicant believes that all claims 1-8, 11-19, 22-30, 33 and 36-50 are in condition for allowance. If the Examiner disagrees, Applicant respectfully requests a phone interview, and requests that the Examiner telephone the undersigned at 312-775-8000.

Applicant respectfully reserves the right to argue additional reasons that support the allowability of claims 1-8, 11-19, 22-30, 33 and 36-50 should that need arise in the future.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously requested.

Respectfully submitted,

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